

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 16TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR. JUSTICE M.F. SALDANHA

W.P. 14238/96 (LR) C/W W.P.14617/96  
14618/96, 15879/96, 15282/96 15283/96  
15880/96, 16302/96, 16306/96, 16312/96  
16318/96 and 16321/96.

BETWEEN

1. Erappa S/o. Karabasappa  
Surapur, Age 75 years,  
Occ: Agriculuture,  
Trustee & Chairman of  
Shri Shanteswara Devara Trust,  
Indi, Indi Taluk,  
Bijapur District.
2. Ninganagonda Yeshwantrao Patil,  
Major, Occ: Agriculture,  
R/o. Indi and Devotee of  
Sri Shanteswara Devasthan,  
Indi, Indi Taluk,  
Bijapur District.

PETITIONERS

(By Sri. F.V.Patil, Adv).

AND

1. The State of Karnataka,  
represented by the  
Secretary to Government,  
Revenue Department,  
M.S.Building, Bangalore-1

2. The Land Tribunal, Indi,  
Indi Taluk, Bijapur District.
3. The Tahsildar, Indi,  
Indi Taluk, Bijapur District.
4. Smt. Channavva W/o. Hanamantha  
Hugar, Major, R/o. Indi,  
Indi Taluk, Bijapur District.  
(Smt. Shanthakumari HCGP for R1toR3)  
(by Sri. S.G.Kulkarni for R-4)

RESPONDENTS

2) BETWEEN

1. Erappa S/o. Karabasappa,  
Surapur, Age 75 Years,  
Occ: Agriculture,  
Trustee & Chairman of  
Sri Shanteshwara Devara Trust,  
Indi, Indi Taluk,  
Bijapur District.
2. Ninganagouda S/o. Yeshwantrao Patil,  
Major, Occ: Agriculture,  
R/o. Indi and Devotee of  
Sri Shanteshwara Devasthan,  
Indi, Indi Taluk,  
Bijapur District.  
(By Sri. F.V.Patil for Petitioners)

PETITIONERS

AND

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2. The Land Tribunal, Indi,  
Indi Taluk, Bijapur District.



3. The Tahsildar, Indi,  
Indi Taluk, Bijapur District.
4. Gurubalappa Bhimanna Poojari,  
Major, R/o. Indi, Indi Taluk,  
Bijapur District.

RESPONDENTS

(By Smt. M.R.Shanthakumari for R 1 to R3)

(By Sri/Smt.

3) BETWEEN


1. Erappa S/o. Karabasappa,  
Surapur, Age 75 Years,  
Occ: Agriculture,  
Trustee & Chairman of  
Shri Shanteshwara Devara Trust,  
Indi, Indi Taluk,  
Bijapur District.
2. Ninganagouda Yeshwantrao Patil,  
Major, Occ: Agriculture,  
R/o. Indi and devotee of  
Sri Shanteshwara Devasthan,  
Indi, Indi Taluk,  
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PETITIONERS

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M.S.Building, Bangalore-1.
2. The Land Tribunal, Indi,  
Indi Taluk, Bijapur District.
3. The Tahsildar, Indi,  
Indi Taluk , Bijapur District.



4. Siddappa Hanamantha Hugar,  
Major, R/o. Indi, Indi Taluk,  
Bijapur District.

RESPONDENTS

(By Smt. M.R.Shanthakumari HCGP for R1 to R3)

4) BETWEEN

1. Erappa S/o. Karabasappa,  
Surapur, Age 75 Years,  
Occ: Agriculture,  
Trustee & Chairman of  
Sri Shanteshwara Devara Trust,  
Indi, Taluk Indi,  
Bijapur District.
2. Ninganagouda Yeshwantrao Patil,  
Major, Occ: Agriculture,  
R/o. Indi and Devotee of  
Sri Shanteshwara Devasthan,  
Indi, Indi Taluk,  
Bijapur District.

PETITIONERS

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Bangalore-1.
2. The Land Tribunal, Indi,  
Indi Taluk, Bijapur District.
3. The Tahsildar, Indi,  
Indi Taluk, Bijapur District.
4. Sambanna Choodappa Pujari,  
since deceased by his Lrs.



- 4 a) Shankarappa Sambanna Pujari,
- 4 b) Shekar Sambanna Poojari
- 4 c) Kallappa Sambanna Pujari,

All are majors, residing at  
Indi, Indi Taluk,  
Bijapur District.

RESPONDENTS

(By Smt. M.R.Shanta Kumari for R 1 to R3)

5) BETWEEN

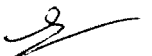
- 1. Erappa S/o. Karabasappa,  
Surapur, Age 75 Years,  
Occ: Agriculture,  
Trustee & Chairman of  
Sri Shanteshwara Devara Trust,  
Indi, Indi Taluk,  
Bijapur District.
- 2. Ninganagouda Yeshwantrao Patil,  
Major, Occ: Agriculture,  
R/o. Indi and devotee of  
Shri Shanteshwara Devasthan,  
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AND

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represented by the  
Secretary to Government,  
Revenue Department,  
M.S.Building,  
Bangalore-560 001.
- 2. The Land Tribunal, Indi,  
Indi Taluk, Bijapur District.
- 3. The Tahsildar, Indi,  
Indi Taluk, Bijapur District.



4. Siddappa Bhimanna Hugar,  
Major, R/o. Indi Village,  
Indi Taluk, Bijapur District.

RESPONDENTS

(By Smt. M.R.Shanta Kumari for R1 to R3)

(By Sri. S.L. Kulkarni for R4)

6) BETWEEN

1. Erappa S/o. Karabasappa,  
Surapur, Age 75 Years,  
Occ: Agriculture,  
Trustee & Chairman of  
Sri Shanteshwara Devara Trust,  
Indi, Indi Taluk,  
Bijapur District.
2. Ninganagouda Yeshwantrao Patil,  
Major, Occ: Agriculture,  
R/o. Indi and devotee of  
Sri Shanteshwara Devasthan,  
Indi, Indi Taluk,  
Bijapur District.

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Secretary to Government,  
Revenue Department,  
M.S.Building,  
Bangalore-560 001.
2. The Land Tribunal, Indi,  
Indi Taluk, Bijapur District.
3. The Tahsildar, Indi,  
Indi Taluk, Bijapur District.
4. Shankarappa Balappa Poojari,  
since deceased by his L.R.

- 4 a) Vitha Bai W/o. Shankarappa  
Poojari, Major, Residing at Indi,  
Indi Taluk,  
Bijapur District.

RESPONDENTS

(By Smt. M.R. Shantha Kumari HOGP for R1 to R3)

(By Sri. S.G. Kulkarni for R4 a)

7) BETWEEN

1. Erappa S/o. Karabasappa,  
Surapur, Age 75 Years,  
Occ: Agriculture,  
Trustee & Chairman of  
Sri Shanteshwara Devara Trust,  
Indi, Indi Taluk,  
Bijapur District.
2. Ninganagouda Yeshwantrao Patil,  
Major, Occ: Agriculture,  
R/o. Indi and devotee of  
Sri Shanteshwara Devasthan,  
Indi, Indi Taluk,  
Bijapur District.

PETITIONERS

(By Sri F.V. Patil, Adv.)

AND

1. The State of Karnataka,  
represented by the  
Secretary to Government,  
Revenue Department,  
M.S. Building,  
Bangalore-560 001.
2. The Land Tribunal, Indi,  
Indi Taluk, Bijapur District.
3. The Tahsildar, Indi,  
Indi Taluk, Bijapur District.
4. Kallappa Annappa Poojari,  
(Bhimappa Kallappa Pujari Amended as per order  
9-3-1998).



5. Shamaraya Kallappa Poojari,

6. Annappa Kallappa Poojari,

respondents - 4 to 6 are Majors,  
R/o. Indi, Indi Taluk,  
Bijapur District.

RESPONDENTS

(By Smt. M.R.Shanthakumari for R1 to R3)

(By Sri. S.G.Kulkarni for R5 & R6).

8) BETWEEN

1. Drappa S/o. Karabasappa  
Surapur, Age 75 Years,  
Occ: Agriculture,  
Trustee & Chairman of  
Shri Shanteswara Devara Trust,  
Indi, Indi Taluk,  
Bijapur District.

2. Ninganagouda Yeshwantrao Patil,  
major, Occ: Agriculture,  
R/o. Indi and Devotee of  
Sri Shanteshwara Devasthan,  
Indi, Indi Taluk,  
Bijapur District.

PETITIONERS

(By Sri. F.V.Patil for Pet.)

AND

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represented by the  
Secretary to Government,  
Revenue Department,  
M.S.Building,  
Bangalore-560 001.
2. The Land Tribunal, Indi,  
Indi Taluk, Bijapur District.
3. The Tahsildar, Indi,  
Indi Taluk, Bijapur District.





4. Jampanna Bhimanna Poojari,  
since deceased by his LRs.

4 a) Bhimanna Jampanna Poojari

- 4 b) Hanumantha Jampanna Poojari,  
Both are majors, R/o. Indi,  
Indi Taluk, Bijapur District.

RESPONDENTS

HCGP

(By Smt. M.R. Shanthakumari/for R1 to R3)

9) BETWEEN

1. Erappa S/o. Karabasappa Surapur,  
Age 75 Years,  
Occ: Agriculture,  
Trustee & Chairman of  
Shri Shanteshwara Devara Trust,  
Indi, Indi Taluk,  
Bijapur District.

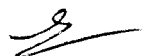
2. Ninganagouda Yeshwantrao Patil,  
Major, Occ: Agriculture,  
R/o. Indi and devotee of  
Sri Shanteshwara Devasthan,  
Indi, Indi Taluk,  
Bijapur District

PETITIONERS

(By Sri F.V. Patil Adv.)

AND

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represented by the  
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Revenue Department,  
M.S. Building,  
Bangalore-1.
2. The Land Tribunal, Indi,  
Indi Taluk, Bijapur District.



3. The Tahsildar, Indi,  
Indi Taluk, Bijapur District.
4. Revanasiddappa Bhimanna, Poojari,  
Major, R/o. Indi, Indi Taluk,  
Bijapur District.

RESPONDENTS

(By Smt. M.R.Shantha Kumari for R 1 to R3)

10 BETWEEN

1. Erappa S/o. Karabasappa Surapur,  
Age: 75 Years, Occ: Agriculture,  
Trustee & Chairman of  
Shri Shanteshwara Devara Trust,  
Indi, Indi Taluk,  
Bijapur District.
2. Ninganaagouda Yeshwantrao Patil,  
Major Occ: Agriculture,  
R/o. Indi and devotee of  
Sri Shanteshwara Devasthan,  
Indi, Indi Taluk,  
Bijapur District.

PETITIONERS

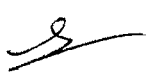
(By Sri. F.V.Patil, Adv.)

AND

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Bangalore-1.
2. The Land Tribunal, Indi,  
Indi Taluk, Bijapur District.
3. The Tahsildar, Indi,  
Indi Taluk, Bijapur District.
4. Basappa Ningappa Hugar, Major,  
R/o. Indi Village, Indi Taluk,  
Bijapur District

RESPONDENTS

(By Smt. M.R.Shanthakumari, HCGP for R1 to R3)  
(By Sri. S.G.Kulkarni for R4)



11 BETWEEN

1. Erappa S/o. Karabasappa Surapur,  
Age 75 years,  
Occ: Agriculture,  
Trustee & Chairman of  
Shri Shanteshwara Dewara Trust,  
Indi, Indi Taluk,  
Bijapur District.
2. Ninganagouda Yeshwantrao Patil,  
Major, Occ: Agriculture,  
R/o. Indi and devotee of  
Sri Shanteshwara Devasthan,  
Indi, Indi Taluk,  
Bijapur District.

PETITIONERS

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Bangalore-1.
2. The Land Tribunal, Indi,  
Indi Taluk, Bijapur District.
3. The Tahsildar, Indi,  
Indi Taluk, Bijapur District.
4. Smt. Rayavva W/o Hanumantha Pujari, Major
5. Basappa Sangappa Pujari, Major,  
Both the residing at Indi,  
Indi Taluk, Bijapur District.

RESPONDENTS

(by Smt. M.R.Shanthakumari HGGP for R1 to R3)  
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12 BETWEEN:

1. Erappa S/o. Karabasappa, Surapur,  
Age: 75 Years,  
Occ: Agriculture,  
Trustee & Chairman of  
Sri Shanteshwara Devara Trust,  
Indi, Indi Taluk,  
Bijapur District.
2. Ninganagouda Yeshwantrao Patil,  
Major, Occ: Agriculture,  
R/o. Indi and devotee of  
Sri Shanteshwara Devasthan,  
Indi, Indi Taluk,  
Bijapur District.

PETITIONERS

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Revenue Department,  
M.S.Building,  
Bangalore-1.
2. The Land Tribunal, Indi,  
Indi Taluk, Bijapur District
3. The Thasildar, Indi,  
Indi Taluk, Bijapur District.
4. Basappa Ningappa Hugar
5. Awwanna Revappa Hugar, Since deceased reb.by LRs  
R 9 and R10.
6. Rayawwa W/o. Hanamant Hugar, (deceased as dead)
7. R4 is legal heir of R6, is already on record.
7. Ambawwa Shankreppa Hugar
8. Gangabai W/o. Bhimanna Hugar  
Respondents-4 to 8 are majors  
R/o. Indi, Indi Taluk, Bijapur District.



9. Revappa & Gundappa, Avvamma Hugar,  
Age: Major,  
R/o. Indi, Indi Taluk,  
Bijapur District.

10. Jagadish Avvamma Hugar,  
Age: Major,  
R/o. Indi,  
Indi Taluk,  
Bijapur District.

(By Smt. M.R.Shantha Kumaru HCGP for R1 to R3)

Memoradium of Writ Petitions are filed under Articles  
226 & 227 of the Constitution praying that this Court be  
pleased to Quash the Order vide Ann.C. dated 5-7-1989 etc.,

W.P.s coming on for hearing this day the Court  
made the following common


ORDER



COMMON ORDER

I have heard the learned advocates as also the learned Govt. Advocate. Some time was asked for as the contesting respondents' learned advocate submitted that there are <sup>a</sup> lot of other disputes and litigations which are interconnected with these issues and he wanted to produce some of that material. If the cases were being heard on merits, I would have certainly acceded to his request and looked into that material. Since it has become necessary to remand the case, I do not see any reason why the matter should be delayed here as this Court is not looking into <sup>the</sup> merits and furthermore because all the contesting parties will be given notice and will be heard before fresh orders are passed.

2. Mr. Patil who represents the petitioner submits that the original order passed by the land tribunal in each of the cases is indefensible because it was absolutely essential that the land belonging ~~ing~~ to the trust should not have been dealt with or disposed of without notice to the petitioner. It is clear that the petitioner was neither a party nor was the petitioner aware of




the proceedings and on this ground alone, the impugned orders will have to be set aside.

3. It was pointed out on behalf of the contesting respondents that the impugned orders are passed in the year 1980 and that there is a delay of 16 years in approaching this Court. It was also pointed out that the petitioners' did not come within the category of illiterate persons, that they have dealt with several litigations and it is therefore submitted that unless the delay is satisfactorily explained that the petitions should be dismissed on this ground alone. In response to this, Mr. Patil points out to me that trust was not a party to the proceedings before the Tribunal and that for the first time in the course of a dispute between the Charity Commissioner in the year 1986 was it disclosed that the Tribunal has granted occupancy rights in favour of the respondents. He states that at no time prior to this was this fact brought to the notice of the petitioners and that therefore, there is no delay. Respondents' learned advocate seriously contests this position and he states that there have been several pending disputes in respect of the trust prior to <sup>this one</sup> ~~it~~ and <sub>k</sub>

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that such a statement from the Trust at this late stage is unacceptable. I do concede that since they <sup>lands</sup> are extensive lands and since the Trust has lost all of them through the impugned orders that if the Trust was aware of those orders that the Trust would have most certainly taken out steps to have the orders <sup>challenged</sup> ~~taken out~~ because they were exparte orders. On this ground also, I am unable to accept that the petitioners were ~~not~~ aware of the orders until filing of the present petition.

4. Since these are hotly contested cases I do not desire to make any observations with regard to the merits or demerits because this will assist or prejudice one or the other of the contesting parties. The impugned orders are set aside and the cases are remanded to the Tribunal with a direction that notice be issued to all the interested parties and in particular, to the petitioners and after hearing the parties fresh orders according to law shall be passed. It is necessary that the status quo as of today be maintained until disposal of the proceeding by the Tribunal. If any of the parties require any





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interim order, it is open to them to apply to the Tribunal for the same. In the circumstances of the cases, there shall be no order as to costs.

*[Handwritten signature]*

Sd/-  
JUDGE

GS/-

